

House Engrossed
FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Seventh Special Session
2010

CHAPTER 3

HOUSE BILL 2003

AN ACT

AMENDING SECTION 15-257, ARIZONA REVISED STATUTES; REPEALING SECTION 38-618.01, ARIZONA REVISED STATUTES; AMENDING SECTION 38-619, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-707; REPEALING SECTION 41-763.03, ARIZONA REVISED STATUTES; RELATING TO STATE BUDGET PROCEDURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-257, Arizona Revised Statutes, is amended to
3 read:

4 15-257. Employee evaluation system

5 ~~Notwithstanding section 38-618.01,~~ The superintendent of public
6 instruction may establish a system to evaluate the performance of employees
7 of the department of education.

8 Sec. 2. Repeal

9 Section 38-618.01, Arizona Revised Statutes, is repealed.

10 Sec. 3. Section 38-619, Arizona Revised Statutes, is amended to read:

11 38-619. Performance based incentives program oversight
12 committee; definition

13 A. A performance based incentives program oversight committee is
14 established consisting of:

15 1. The director of the department of administration or the director's
16 designee.

17 2. The executive director of the Arizona board of regents or the
18 executive director's designee.

19 3. Two members of the senate who are appointed by the president of the
20 senate. The appointees shall be members of different political parties. One
21 of these appointees shall be designated to cochair the committee.

22 4. Two members of the house of representatives who are appointed by
23 the speaker of the house of representatives. The appointees shall be members
24 of different political parties. One of these appointees shall be designated
25 to cochair the committee.

26 5. An agency director who is appointed by the governor.

27 6. A representative from the governor's office of equal opportunity
28 who is appointed by the governor.

29 7. Two public members who have expertise in compensation analysis.
30 The speaker of the house of representatives shall appoint one of these
31 members, and the president of the senate shall appoint one of these members.

32 B. The committee shall:

33 1. Develop and adopt guidelines for a state employee performance based
34 incentives program. The guidelines shall include agency or university goals
35 that result in cost reduction, increased productivity and improved quality of
36 the delivery of state services or products.

37 2. Identify incentives and available resources to provide incentives,
38 such as vacancy savings achieved in each state agency and state university.

39 3. Coordinate with state agencies and universities participating in
40 the ongoing performance based incentives program to evaluate the success of
41 the program.

42 4. Review agency and university requests to participate in a pilot
43 incentive program or an established performance based incentive program and

1 make recommendations on those requests to the director of the department of
2 administration or the executive director of the Arizona board of regents.

3 ~~5. Review performance measures established pursuant to section~~
4 ~~38-618.01 for reasonableness and monitor the effectiveness of the~~
5 ~~governmental units in meeting these performance measures.~~

6 C. The committee may recommend that the director of the department of
7 administration or the executive director of the Arizona board of regents
8 place an approved program on probationary status or terminate an approved
9 program for failing to meet approved goals and objectives.

10 D. For the purposes of this section, "governmental unit" means all
11 agencies, departments, boards and commissions of this state.

12 Sec. 4. Title 41, chapter 4, article 1, Arizona Revised Statutes, is
13 amended by adding section 41-707, to read:

14 41-707. Working capital surplus report

15 ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE DIRECTOR SHALL SUBMIT TO THE
16 JOINT LEGISLATIVE BUDGET COMMITTEE A WORKING CAPITAL SURPLUS REPORT
17 ASSOCIATED WITH MEETING THE REQUIREMENTS FOR ANY TAX-EXEMPT DEFICIT FINANCING
18 AGREEMENTS ENTERED INTO ON OR AFTER JANUARY 1, 2009.

19 Sec. 5. Repeal

20 Section 41-763.03, Arizona Revised Statutes, is repealed.

21 Sec. 6. Federal stimulus funding; reporting

22 A. The governor's office of economic recovery shall provide a report
23 to the joint legislative budget committee on or before October 1, 2010
24 outlining each state agency's receipt of monies from the American recovery
25 and reinvestment act of 2009 (P.L. 111-5) in fiscal years 2009-2010 and
26 2010-2011.

27 B. The report shall include the following information for each state
28 agency receiving monies from the American recovery and reinvestment act of
29 2009 (P.L. 111-5):

30 1. The amount of monies received by each state agency from each
31 federal grant.

32 2. The purpose of receiving the additional monies.

33 3. How the monies were spent.

34 4. The number of personnel funded by the monies and whether they were
35 existing personnel.

36 5. The extent to which the monies offset state budget reductions.

37 C. The governor's office of economic recovery may meet the
38 requirements of subsection A by notifying the joint legislative budget
39 committee that its report has been posted to the governor's office of
40 economic recovery website, if the information provided through the website
41 meets all of the requirements prescribed in subsection B.

42 Sec. 7. Unrestricted federal monies; retroactivity

43 A. Any unrestricted federal monies, excluding monies from the American
44 recovery and reinvestment act of 2009 (P.L. 111-5), received from July 1,

1 2010 through June 30, 2011 shall be deposited in the state general fund. The
2 monies shall be used for the payment of essential governmental services.

3 B. This section is effective retroactively to from and after June 30,
4 2010.

5 Sec. 8. Performance pay reduction: 2009-2010; 2010-2011;
6 exceptions; definition

7 A. In order to implement the expenditure reductions for personnel
8 expenses in the 2010-2011 general appropriations act, the joint legislative
9 budget committee staff shall determine and the department of administration
10 shall allocate to each state agency, department, board or commission an
11 amount sufficient to decrease the salary rate of each employee by 2.75 per
12 cent plus resulting employee related expenditure reductions effective from
13 and after May 29, 2010. Where applicable, this reduction shall come from
14 monies previously appropriated for performance pay. All monies from other
15 appropriated funds and nonfederal nonappropriated funds that are reduced
16 pursuant to this section shall be transferred to the state general fund.

17 B. The joint legislative budget committee staff also shall determine
18 and the department of administration shall allocate reductions, as necessary,
19 in total expenditure authority resulting from the salary reductions required
20 by this section.

21 C. This section does not apply to the following:

22 1. Board and commission members who are paid on a per diem basis.

23 2. Employees of universities under the jurisdiction of the Arizona
24 board of regents while the maintenance of effort provisions of the federal
25 education stabilization program are in effect, as required by the American
26 recovery and reinvestment act of 2009 (P.L. 111-5).

27 3. Employees of elected state officers.

28 D. For the purposes of this section, "employees of elected state
29 officers" means employees of the house of representatives, the senate, any
30 budget unit that reports to the legislature, the judiciary, the secretary of
31 state, the state treasurer, the attorney general, the corporation commission,
32 the state mine inspector, the Arizona board of regents and the superintendent
33 of public instruction.

34 Sec. 9. Mandatory furloughs: 2009-2010; 2010-2011; 2011-2012;
35 terms; exceptions; definitions

36 A. In order to the implement the expenditure reductions for personnel
37 expenses in the 2010-2011 general appropriations act, the joint legislative
38 budget committee staff shall determine and the department of administration
39 shall allocate to each state agency, department, board or commission an
40 amount sufficient to implement the mandatory furloughs pursuant to this
41 section. All monies from other appropriated funds and nonfederal
42 nonappropriated funds that are reduced pursuant to this section shall be
43 transferred to the state general fund. The joint legislative budget
44 committee staff also shall determine and the department of administration

1 shall allocate reductions, as necessary, in total expenditure authority
2 resulting from the mandatory furloughs required by this section.

3 B. Unless otherwise exempted by this section, each state agency,
4 department, board or commission, in addition to any other furlough program
5 implemented by the agency, shall furlough employees as follows:

6 1. In fiscal year 2009-2010: One day

7 2. In fiscal year 2010-2011: Six days

8 3. In fiscal year 2011-2012: Six days

9 C. It is the intent of the legislature that the furlough days required
10 by this section be taken no more than once a month and in a way that
11 maximizes utility savings and minimizes customer inconvenience. The
12 department of administration shall publish a list of the preferred furlough
13 dates that best achieve these goals. These published dates shall be the
14 presumptive furlough dates for all governmental units unless otherwise
15 approved by the department of administration. Notwithstanding any other law,
16 for fiscal years 2009-2010, 2010-2011 and 2011-2012, the furlough dates
17 published by the department of administration shall authorize participating
18 state offices to be closed on those dates in order to meet the furlough
19 requirements of this section.

20 D. Employees who are subject to the furlough requirement of this
21 section shall be on leave without pay and are not eligible to use any form of
22 paid leave on a designated furlough day unless allowance for the use of paid
23 leave in any specific case is otherwise required by state or federal law.

24 E. On or before April 16, 2010, the department of administration shall
25 develop a list of governmental unit functions or services requiring
26 continuous operations throughout the entire week or workweek that would be
27 significantly and negatively affected by the implementation of a furlough
28 program due to either:

29 1. The critical nature of the services delivered, such as direct
30 public safety activities or direct care of patients, residents, inmates,
31 detainees or other similar service populations.

32 2. Other compelling demands for a governmental unit's functions or
33 services.

34 F. Employees whose services are determined to be essential pursuant to
35 subsection E to ensuring that functions or services are delivered safely and
36 effectively are exempt from the furlough requirements of this section. It is
37 the intent of the legislature to exempt from the furlough requirements of
38 this section only those employees considered absolutely essential for the
39 proper performance and oversight of these essential functions or services.

40 G. In lieu of mandatory furlough participation, the director of a
41 governmental unit may elect, on written approval of the director of the
42 department of administration, to reduce employee pay for personnel not
43 otherwise determined exempt pursuant to subsection F within the governmental
44 unit by amounts that, when totaled, equal the savings generated by the

1 furlough days otherwise required in this section. The director of the
2 department of administration may approve only those written requests in which
3 the director of the governmental unit establishes, to the satisfaction of the
4 director of the department of administration, that the governmental unit's
5 implementation of mandatory furlough days would not be in the best interests
6 of this state and that an equivalent pay reduction program is more
7 appropriate. The director of the department of administration may approve or
8 disapprove only written requests that fully substitute the required furlough
9 days with an equivalent salary rate and employee related expenditure
10 reduction. Governmental units shall submit written requests pursuant to this
11 subsection no later than April 16, 2010.

12 H. On or before April 30, 2010, the department of administration shall
13 report to the joint legislative budget committee those job classifications
14 and the numbers, by governmental unit, of employees that have been exempted
15 from the furlough program pursuant to this section. The department shall
16 provide report updates to the joint legislative budget committee whenever
17 changes are made to the exempted job classifications or the numbers, by
18 governmental unit, of exempted employees. The report shall also include any
19 written requests that were approved to fully substitute the required furlough
20 days with an equivalent salary rate and employee related expenditure
21 reduction pursuant to subsection G.

22 I. This section does not apply to:

23 1. Employees of universities under the jurisdiction of the Arizona
24 board of regents while the maintenance of effort provisions of the federal
25 education stabilization program are in effect, as required by the American
26 recovery and reinvestment act of 2009 (P.L. 111-5).

27 2. Employees of elected state officers.

28 J. For the purposes of this section:

29 1. "Employees of elected state officers" means employees of the house
30 of representatives, the senate, any budget unit that reports to the
31 legislature, the judiciary, the secretary of state, the state treasurer, the
32 attorney general, the corporation commission, the state mine inspector, the
33 Arizona board of regents and the superintendent of public instruction.

34 2. "Governmental unit" means all agencies, departments, boards and
35 commissions of this state unless otherwise exempt under this section.

36 Sec. 10. Reductions; employees of state elected offices;
37 2009-2010 and 2010-2011; definitions

38 A. In order to implement the expenditure reductions for personnel
39 expenses in the 2010-2011 general appropriations act, the joint legislative
40 budget committee staff shall determine and the department of administration
41 shall allocate to each state elected office an amount equivalent to a 2.75
42 per cent salary rate for non-elected employees of a state elected office plus
43 resulting employee related expenditure reductions effective from and after
44 May 29, 2010. The appropriate officer of each state elected office shall

1 determine how the reduction will be applied, including using vacancy savings,
2 salary reductions and furloughs. All monies from other appropriated funds
3 and nonfederal nonappropriated funds that are reduced pursuant to this
4 section shall be transferred to the state general fund.

5 B. In order to implement the expenditure reductions for personnel
6 expenses in the 2010-2011 general appropriations act, the joint legislative
7 budget committee staff shall determine and the department of administration
8 shall allocate to each state elected office an amount equivalent to a 2.3 per
9 cent salary rate for non-elected employees of a state elected office plus
10 resulting employee related expenditure reductions effective from and after
11 May 29, 2010 for fiscal years 2009-2010 and 2010-2011. It is the intent of
12 the legislature that the reduction taken under this subsection is the
13 monetary equivalent of the mandatory furlough requirements in this act for
14 state employees who are under the direction of the department of
15 administration and will be continued while the mandatory furloughs are in
16 effect through fiscal year 2011-2012. The appropriate officer shall
17 determine how the reduction will be applied, including using vacancy savings,
18 salary reductions and furloughs. All monies from other appropriated funds
19 and nonfederal nonappropriated funds that are reduced pursuant to this
20 section shall be transferred to the state general fund.

21 C. This section does not apply to employees of universities under the
22 jurisdiction of the Arizona board of regents.

23 D. For the purposes of this section:

24 1. "Appropriate officer" means the presiding elected officer of a
25 state elected office or the director of a budget unit that reports to the
26 legislature.

27 2. "State elected office" means the house of representatives, the
28 senate, a budget unit that reports to the legislature, the judiciary, the
29 secretary of state, the state treasurer, the attorney general, the
30 corporation commission, the state mine inspector, the Arizona board of
31 regents and the superintendent of public instruction.

32 Sec. 11. Required reduction in hours

33 An agency director may require agency covered employees to work reduced
34 hours in order to comply with any reduction in appropriations for fiscal year
35 2010-2011. The director of the department of administration shall prescribe
36 procedures to implement these reductions. The director of the department of
37 administration is exempt from the rule making requirements of title 41,
38 chapter 6, Arizona Revised Statutes, for the purposes of prescribing these
39 procedures.

40 Sec. 12. Annual budgets

41 Notwithstanding section 35-121, Arizona Revised Statutes, for fiscal
42 year 2010-2011, appropriations for all budget units may be limited to one
43 fiscal year.

1 Sec. 13. Calculation adjustments: fiscal year 2010-2011:
2 closing state general fund balance

3 Notwithstanding any other law, for the purposes of calculating the
4 state general fund balance at the close of fiscal year 2010-2011, any monies
5 that are appropriated from the state general fund that are exempt from
6 lapsing pursuant to section 35-190, Arizona Revised Statutes, and that remain
7 unexpended and unencumbered at the close of fiscal year 2010-2011 shall be
8 included in the closing balance as if the appropriations had lapsed or
9 otherwise reverted to the state general fund.

APPROVED BY THE GOVERNOR MARCH 18, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 18, 2010.